

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DMITRIY SHIROKOV, on behalf of himself
and all others similarly situated

Plaintiff,

v.

DUNLAP, GRUBB & WEAVER, PLLC; US
COPYRIGHT GROUP; THOMAS DUNLAP;
NICHOLAS KURTZ; GUARDALEY, LIMITED;
and ACHTE/NEUNTE Boll Kino
Beteiligungs Gmbh & Co KG,

Defendants.

Case: 1:10-cv-12043-GAO

**DEFENDANTS DUNLAP, GRUBB & WEAVER, PLLC’S, THOMAS DUNLAP’S, AND
NICHOLAS KURTZ’S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendants Dunlap, Grubb & Weaver, PLLC, Thomas Dunlap, and Nicholas Kurtz (“the defendants”) respectfully submit this motion to dismiss pursuant to Fed. R.Civ. P. 12(b)(6). As grounds therefor, as further set forth in the accompanying memorandum of law, the defendants submit that each of the plaintiff’s twenty five counts fails to state a claim on which relief can be granted.¹

Wherefore, the defendants respectfully request that the Court dismiss the plaintiff’s claims in their entirety against Defendants Dunlap Grubb & Weaver, PLLC, Thomas Dunlap and Nicholas Kurtz, along with the putative class claims, with prejudice, and award attorneys’ fees and expenses and such other further relief that the Court deems just and proper.

¹ The defendants are concurrently filing Defendants Dunlap, Grubb & Weaver, PLLC, Thomas Dunlap, and Nicholas Kurtz’s Motion for Sanctions Pursuant to Fed. R. Civ. P. 11 on the grounds the claims brought by the plaintiff are not “warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law.” See Fed. R. Civ. P. 11.

REQUEST FOR ORAL ARGUMENT

The defendants, believing that oral argument may assist the Court, and wishing to be heard, respectfully request oral argument on this motion.

The Defendants,
Dunlap, Grubb & Weaver, PLLC,
Thomas Dunlap, and Nicholas Kurtz
By their counsel,

/s/ Kara Thorvaldsen
George C. Rockas BBO# 544009
Kara Thorvaldsen BBO# 660723
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP
260 Franklin Street
Boston, MA 02110
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CERTIFICATION PURSUANT TO LOCAL RULE 7.1

The undersigned counsel hereby certifies that on Tuesday, January 25, 2011, I attempted to resolve or narrow the issues addressed in this motion by contacting plaintiff's counsel, Dan Booth, by telephone. I left a voicemail for him, but did not receive a response prior to filing the foregoing motion.

/s/ Kara Thorvaldsen

Certificate Of Service

I, Kara Thorvaldsen, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). I am not aware of any party who is not a registered participant, and therefore electronic filing is the sole means of service of this document.

/s/ Kara Thorvaldsen